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TREASURY DEPARTMENT

74TH CONGRESS }
1ST Session

H. R. 8870

[Report No. 1542]

A BILL

To further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes.

By Mr. CULLEN

JULY 16, 1935

Referred to the Committee on Ways and Means and
ordered to be printed

JULY 17, 1935

Committed to the Committee of the Whole House on
the state of the Union and ordered to be printed

74TH CONGRESS
1ST SESSION

H. R. 8870

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 25), 1935

Read twice and referred to the Committee on Finance

AN ACT

To further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Alcohol Admin-
4 istration Act."

5 FEDERAL ALCOHOL ADMINISTRATION

6 SEC. 2. (a) There is hereby created the Federal
7 Alcohol Administration as a division in the Treasury
8 Department.

1 (b) The Administration shall be headed by an Admin-
2 istrator, who shall be appointed by the President, by and
3 with the advice and consent of the Senate. The Admin-
4 istrator shall for his services receive compensation at the
5 rate of \$10,000 per annum, together with actual and neces-
6 sary traveling and subsistence expenses while engaged in
7 the exercise of his powers and duties outside the District
8 of Columbia. No person shall be eligible to appointment,
9 or continue in office, as Administrator if he is engaged or
10 financially interested in, or is an officer or director of or
11 employed by a corporation engaged in, the production or
12 sale or other distribution of alcoholic beverages, or the
13 financing thereof.

14 (c) The Administrator shall, without regard to the
15 civil-service laws and the Classification Act of 1923, as
16 amended, appoint and fix the compensation and duties of
17 such officers and employees as he deems necessary to carry
18 out his powers and duties, but the compensation so fixed
19 shall be subject to the approval of the Secretary of the
20 Treasury. The Administrator is authorized to adopt an
21 official seal, which shall be judicially noticed.

22 (d) The Administrator is authorized and directed to
23 prescribe such rules and regulations as may be necessary
24 to carry out his powers and duties. All rules and regula-
25 tions prescribed by the Administrator shall be subject to
26 the approval of the Secretary of the Treasury.

(e) Appropriations to carry out powers and duties of the Administrator shall be available for expenditure, among other purposes, for personal services and rent in the District of Columbia and elsewhere, expenses for travel and subsistence, for law books, books of reference, magazines, periodicals, and newspapers, for contract stenographic reporting services, for subscriptions for library services, for purchase of samples for analysis or use as evidence, and for holding conference of State and Federal liquor control officials.

(f) The Administrator may, with the consent of the department or agency affected, utilize the services of any department or other agency of the Government to the extent necessary to carry out his powers and duties and authorize officers and employees thereof to act as his agents.

(g) The provisions, including penalties, of sections 9 and 10 of the Federal Trade Commission Act, as now or hereafter amended, shall be applicable to the jurisdiction, powers, and duties of the Administrator, and to any person (whether or not a corporation) subject to the provisions of laws administered by the Administrator.

(h) The Administrator is authorized to require, in such manner and form as he shall prescribe, such reports as are necessary to carry out his powers and duties.

1 UNLAWFUL BUSINESSES WITHOUT PERMIT

2 SEC. 3. In order effectively to regulate interstate and
3 foreign commerce in distilled spirits, wine, and malt bev-
4 erages, to enforce the twenty-first amendment, and to
5 protect the revenue and enforce the postal laws with respect
6 to distilled spirits, wine, and malt beverages:

7 (a) It shall be unlawful, except pursuant to a basic
8 permit issued under this Act by the Administrator—

9 (1) to engage in the business of importing into
10 the United States distilled spirits, wine, or malt bev-
11 erages; or

12 (2) for any person so engaged to sell, offer or
13 deliver for sale, contract to sell, or ship, in interstate
14 or foreign commerce, directly or indirectly or through
15 an affiliate, distilled spirits, wine, or malt beverages
16 so imported.

17 This subsection shall take effect sixty days after the date of
18 the enactment of this Act.

19 (b) It shall be unlawful, except pursuant to a basic
20 permit issued under this Act by the Administrator—

21 (1) to engage in the business of distilling dis-
22 tilled spirits, producing wine, rectifying or blending
23 distilled spirits or wine, or bottling, or warehousing and
24 bottling, distilled spirits; or

1 (2) for any person so engaged to sell, offer or
2 deliver for sale, contract to sell, or ship, in interstate or
3 foreign commerce, directly or indirectly or through an
4 affiliate, distilled spirits or wine so distilled, produced,
5 rectified, blended, or bottled, or warehoused and
6 bottled.

7 This subsection shall take effect sixty days after the date of
8 the enactment of this Act.

9 (c) It shall be unlawful, except pursuant to a basic
10 permit issued under this Act by the Administrator—

11 (1) to engage in the business of purchasing for
12 resale at wholesale distilled spirits, wine, or malt
13 beverages; or

14 (2) for any person so engaged to receive or to
15 sell, offer or deliver for sale, contract to sell, or ship,
16 in interstate or foreign commerce, directly or indirectly
17 or through an affiliate, distilled spirits, wine, or malt
18 beverages so purchased.

19 This subsection shall take effect January 1, 1936.

20 This section shall not apply to any agency of a State
21 or political subdivision thereof or any officer or employee of
22 any such agency, and no such agency or officer or employee
23 shall be required to obtain a basic permit under this Act.

PERMITS

SEC. 4. (a) The following persons shall, on application therefor, be entitled to a basic permit:

(1) Any person who, on May 25, 1935, held a basic permit as distiller, rectifier, wine producer, or importer issued by an agency of the Federal Government.

(2) Any other person unless the Administrator finds (A) that such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has, within five years prior to date of application, been convicted of a felony under Federal or State law; or (B) that such person is, by reason of his business experience, financial standing, or trade connections, not likely to commence operations within a reasonable period or to maintain such operations in conformity with Federal law; or (C) that the operations proposed to be conducted by such person are in violation of the law of the State in which they are to be conducted.

(b) If upon examination of any application for a basic permit the Administrator has reason to believe that the applicant is not entitled to such permit, he shall notify the applicant thereof and, upon request by the applicant, afford him due notice and opportunity for hearing on the

1 application. If the Administrator, after affording such
2 notice and opportunity for hearing, finds that the applicant
3 is not entitled to a basic permit hereunder, he shall by order
4 deny the application stating the findings which are the basis
5 for his order.

6 (c) The Administrator shall prescribe the manner and
7 form of all applications for basic permits (including the
8 facts to be set forth therein) and the form of all basic
9 permits, and shall specify in any basic permit the authority
10 conferred by the permit and the conditions thereof in
11 accordance with the provisions of this Act. To the extent
12 deemed necessary by the Administrator for the efficient
13 administration of this Act, separate applications and permits
14 shall be required by the Administrator with respect to
15 distilled spirits, wine, and malt beverages, and the various
16 classes thereof, and with respect to the various classes of
17 persons entitled to permits hereunder. The issuance of
18 a basic permit under this Act shall not operate to deprive
19 the United States of its remedy for any violation of law.

20 (d) A basic permit shall be conditioned upon com-
21 pliance with the requirements of section 5 (relating to
22 unfair competition and unlawful practices), with the
23 twenty-first amendment and laws relating to the enforce-
24 ment thereof, and with all other Federal laws relating to

1 distilled spirits, wine, and malt beverages, including taxes
2 with respect thereto.

3 (e) (1) No basic permit issued under this Act shall
4 contain any condition prohibiting, nor shall any rule,
5 regulation, or order, issued under this or any other Act of
6 Congress, prohibit, the use or sale of any barrel, cask, or
7 keg, if made of wood and if of one or more wine-gallons
8 capacity, as a container in which to store, transport, or
9 sell, or from which to sell, any distilled spirits, wine, or
10 malt beverages. This subsection shall not apply to any
11 condition in any basic permit issued under this Act or any
12 rule, regulation, or order issued in connection therewith to
13 the extent that such condition applies in a State in which
14 the use or sale of any such barrel, cask, or keg is prohibited
15 by the law of such State.

16 (2) It shall be unlawful for any person to package
17 or repackage distilled spirits for sale or resale in bottles
18 unless such person is a distiller, a rectifier of distilled
19 spirits, or a person operating a bonded warehouse qualified
20 under the internal revenue laws or a class 8 bonded ware-
21 house qualified under the customs laws, holding a basic
22 permit under this Act, or is a proprietor of an industrial
23 alcohol plant or is an agency of a State or political subdivi-
24 sion thereof: *Provided*, That any other person may so
25 package distilled spirits in bottles if he qualifies under the

1 internal revenue laws as a rectifier and holds a basic permit
2 issued under this Act for the rectification of distilled spirits.

3 (3) Notwithstanding the foregoing provisions of this
4 subsection, no person who is subject to the occupational tax
5 imposed by section 3244 "Fourth" of the Revised Statutes,
6 as amended (U. S. C., Supp. VII, title 26, sec. 1394 (c)),
7 on retail dealers in liquors shall package or repackage dis-
8 tilled spirits for sale or resale in bottles or be eligible to
9 qualify as a rectifier of distilled spirits, and no such person,
10 except a bona fide hotel or club, shall, for purposes of sale,
11 remove from any such barrel, cask, or keg any distilled
12 spirits contained therein. Any person who violates the pro-
13 visions of this paragraph or paragraph (2) shall, upon
14 conviction thereof, be fined not more than \$1,000 or im-
15 prisoned for not more than one year, or both, and shall
16 forfeit to the United States all distilled spirits with respect
17 to which the violation occurs, and the bottles in which
18 packaged.

19 (f) A basic permit shall by order of the Adminis-
20 trator, after due notice and opportunity for hearing to the
21 permittee, (1) be revoked, or suspended for such period
22 as the Administrator deems appropriate, if the Adminis-
23 trator finds that the permittee has willfully violated any of
24 the conditions thereof, provided that for a first violation
25 of the conditions thereof the permit shall be subject to sus-

1 pension only; or (2) be revoked if the Administrator finds
2 that the permittee has not engaged in the operations author-
3 ized by the permit for a period of more than two years; or
4 (3) be annulled if the Administrator finds that the permit
5 was procured through fraud, or misrepresentation, or con-
6 cealment of material fact. The order shall state the findings
7 which are the basis for the order.

8 (g) Orders of the Administrator with respect to any
9 denial of application, suspension, revocation, annulment,
10 or other proceedings, shall be served (1) in person by any
11 officer or employee of the Administration designated by
12 the Administrator or any internal revenue or customs officer
13 authorized by the Administrator for the purpose, or (2)
14 by mailing the order by registered mail, addressed to the
15 applicant or respondent at his last known address in the
16 records of the Administrator.

17 (h) A basic permit shall continue in effect until sus-
18 pended, revoked, or annulled as provided herein, or volun-
19 tarily surrendered; except that (1) if leased, sold or
20 otherwise voluntarily transferred, the permit shall be auto-
21 matically terminated thereupon, and (2) if transferred by
22 operation of law or if actual or legal control of the permittee
23 is acquired, directly or indirectly, whether by stock-owner-
24 ship or in any other manner, by any person, then such
25 permit shall be automatically terminated at the expiration

1 of thirty days thereafter: *Provided*, That if within such
2 thirty-day period application for a new basic permit is made
3 by the transferee or permittee, respectively, then the out-
4 standing basic permit shall continue in effect until such
5 application is finally acted on by the Administrator.

6 (i) An appeal may be taken by the permittee or
7 applicant for a permit from any order of the Administrator
8 denying an application for, or suspending, revoking, or
9 annulling, a basic permit. Such appeal shall be taken by
10 filing, in the circuit court of appeals of the United States
11 within any circuit wherein such person resides or has his
12 principal place of business, or in the United States Court of
13 Appeals for the District of Columbia, within sixty days after
14 the entry of such order, a written petition praying that the
15 order of the Administrator be modified or set aside in whole
16 or in part. A copy of such petition shall be forthwith
17 served upon the Administrator, or upon any officer desig-
18 nated by him for that purpose, and thereupon the Admin-
19 istrator shall certify and file in the court a transcript of
20 the record upon which the order complained of was entered.
21 Upon the filing of such transcript such court shall have
22 exclusive jurisdiction to affirm, modify, or set aside such
23 order, in whole or in part. No objection to the order of
24 the Administrator shall be considered by the court unless
25 such objection shall have been urged before the Admin-

1 istrator or unless there were reasonable grounds for failure
2 so to do. The finding of the Administrator as to the facts,
3 if supported by substantial evidence, shall be conclusive.
4 If any party shall apply to the court for leave to adduce
5 additional evidence, and shall show to the satisfaction of
6 the court that such additional evidence is material and that
7 there were reasonable grounds for failure to adduce such
8 evidence in the proceeding before the Administrator, the
9 court may order such additional evidence to be taken before
10 the Administrator and to be adduced upon the hearing in
11 such manner and upon such terms and conditions as to the
12 court may seem proper. The Administrator may modify
13 his findings as to the facts by reason of the additional evi-
14 dence so taken, and he shall file with the court such mod-
15 ified or new findings, which, if supported by substantial
16 evidence, shall be conclusive, and his recommendation, if
17 any, for the modification or setting aside of the original
18 order. The judgment and decree of the court affirming,
19 modifying, or setting aside, in whole or in part, any such
20 order of the Administrator shall be final, subject to review
21 by the Supreme Court of the United States upon certiorari
22 or certification as provided in sections 239 and 240 of the
23 Judicial Code, as amended (U. S. C., title 28, secs. 346
24 and 347). The commencement of proceedings under this

1 subsection shall, unless specifically ordered by the court,
2 operate as a stay of the Administrator's order.

3 (j) No proceeding for the suspension or revocation of
4 a basic permit for violation of any condition thereof relating
5 to compliance with Federal law shall be instituted by the
6 Administrator more than eighteen months after conviction
7 of the violation of Federal law, or, if no conviction has been
8 had, more than three years after the violation occurred;
9 and no basic permit shall be suspended or revoked for a
10 violation of any such condition thereof if the alleged viola-
11 tion of Federal law has been compromised by any officer of
12 the Government authorized to compromise such violation.

13 UNFAIR COMPETITION AND UNLAWFUL PRACTICES

14 SEC. 5. It shall be unlawful for any person engaged in
15 business as a distiller, brewer, rectifier, blender, or other
16 producer, or as an importer or wholesaler, of distilled spirits,
17 wine, or malt beverages, or as a bottler, or warehouseman
18 and bottler, of distilled spirits, directly or indirectly or
19 through an affiliate:

20 (a) Exclusive outlet: To require, by agreement or
21 otherwise, that any retailer engaged in the sale of distilled
22 spirits, wine, or malt beverages, purchase any such products
23 from such person to the exclusion in whole or in part of dis-
24 tilled spirits, wine, or malt beverages sold or offered for

1 sale by other persons in interstate or foreign commerce, if
2 such requirement is made in the course of interstate or for-
3 eign commerce, or if such person engages in such practice
4 to such an extent as substantially to restrain or prevent
5 transactions in interstate or foreign commerce in any such
6 products, or if the direct effect of such requirement is to
7 prevent, deter, hinder, or restrict other persons from selling
8 or offering for sale any such products to such retailer in
9 interstate or foreign commerce; or

10 (b) "Tied house": To induce through any of the
11 following means, any retailer, engaged in the sale of distilled
12 spirits, wine, or malt beverages, to purchase any such prod-
13 ucts from such person to the exclusion in whole or in part
14 of distilled spirits, wine, or malt beverages sold or offered
15 for sale by other persons in interstate or foreign commerce,
16 if such inducement is made in the course of interstate or
17 foreign commerce, or if such person engages in the practice
18 of using such means, or any of them, to such an extent as
19 substantially to restrain or prevent transactions in inter-
20 state or foreign commerce in any such products, or if the
21 direct effect of such inducement is to prevent, deter, hinder,
22 or restrict other persons from selling or offering for sale any
23 such products to such retailer in interstate or foreign com-
24 merce: (1) By acquiring or holding (after the expiration
25 of any existing license) any interest in any license with

1 respect to the premises of the retailer; or (2) by acquiring
2 any interest in real or personal property owned, occupied,
3 or used by the retailer in the conduct of his business; or (3)
4 by furnishing, giving, renting, lending, or selling to the re-
5 tailer, any equipment, fixtures, signs, supplies, money, serv-
6 ices, or other thing of value, subject to such exceptions as the
7 Administrator shall by regulation prescribe, having due re-
8 gard for public health, the quantity and value of articles
9 involved, established trade customs not contrary to the pub-
10 lic interest and the purposes of this subsection; or (4) by
11 paying or crediting the retailer for any advertising, display,
12 or distribution service; or (5) by guaranteeing any loan or
13 the repayment of any financial obligation of the retailer;
14 or (6) by extending to the retailer credit for a period in
15 excess of the credit period usual and customary to the in-
16 dustry for the particular class of transactions, as ascertained
17 by the Administrator and prescribed by regulations by
18 him; or (7) by requiring the retailer to take and dispose of
19 a certain quota of any of such products; or

20 (c) Commercial bribery: To induce through any of
21 the following means, any trade buyer engaged in the sale
22 of distilled spirits, wine, or malt beverages, to purchase
23 any such products from such person to the exclusion in
24 whole or in part of distilled spirits, wine, or malt beverages
25 sold or offered for sale by other persons in interstate or

1 foreign commerce, if such inducement is made in the course
2 of interstate or foreign commerce, or if such person engages
3 in the practice of using such means, or any of them, to such
4 an extent as substantially to restrain or prevent transactions
5 in interstate or foreign commerce in any such products, or
6 if the direct effect of such inducement is to prevent, deter,
7 hinder, or restrict other persons from selling or offering for
8 sale any such products to such trade buyer in interstate or
9 foreign commerce: (1) By commercial bribery; or (2)
10 by offering or giving any bonus, premium, or compensation
11 to any officer, or employee, or representative of the trade
12 buyer; or

13 (d) Consignment sales: To sell, offer for sale, or
14 contract to sell to any trade buyer engaged in the sale of
15 distilled spirits, wine, or malt beverages, or for any such
16 trade buyer to purchase, offer to purchase, or contract to
17 purchase, any such products on consignment or under con-
18 ditional sale or with the privilege of return or on any basis
19 otherwise than a bona fide sale, or where any part of such
20 transaction involves, directly or indirectly, the acquisition
21 by such person from the trade buyer or his agreement to
22 acquire from the trade buyer other distilled spirits, wine,
23 or malt beverages—if such sale, purchase, offer, or contract
24 is made in the course of interstate or foreign commerce, or
25 if such person or trade buyer engages in such practice to

1 such an extent as substantially to restrain or prevent trans-
2 actions in interstate or foreign commerce in any such prod-
3 ucts, or if the direct effect of such sale, purchase, offer, or
4 contract is to prevent, deter, hinder, or restrict other persons
5 from selling or offering for sale any such products to such
6 trade buyer in interstate or foreign commerce; or

7 (e) Labeling.—To sell or ship or deliver for sale or
8 shipment, or otherwise introduce in interstate or foreign
9 commerce, or to receive therein, or to remove from customs
10 custody for consumption, any distilled spirits, wine, or malt
11 beverages in bottles, unless such products are bottled, pack-
12 aged, and labeled in conformity with such regulations, to
13 be prescribed by the Administrator, with respect to pack-
14 aging, marking, branding, and labeling and size and fill of
15 container (1) as will prohibit deception of the consumer
16 with respect to such products or the quantity thereof and
17 as will prohibit, irrespective of falsity, such statements relat-
18 ing to age, manufacturing processes, analyses, guarantees,
19 and scientific or irrelevant matters as the Administrator
20 finds to be likely to mislead the consumer; (2) as will
21 provide the consumer with adequate information as to the
22 identity and quality of the products, the alcoholic content
23 thereof (except that statements of, or statements likely to be
24 considered as statements of, alcoholic content of malt bever-
25 ages are hereby prohibited unless required by State law and

1 except that, in case of wines, statements of alcoholic content
2 shall be required only for wines containing more than 14 per
3 centum of alcohol by volume), the net contents of the pack-
4 age, and the manufacturer or bottler or importer of the
5 product; (3) as will require an accurate statement, in the
6 case of distilled spirits (other than cordials, liqueurs, and
7 specialties) produced by blending or rectification or in case of
8 gin whether or not produced by blending or rectification, if
9 neutral spirits have been used in the production thereof, in-
10 forming the consumer of the percentage of neutral spirits so
11 used and of the name of the commodity from which such neu-
12 tral spirits have been distilled; (4) as will prohibit statements
13 on the label that are disparaging of a competitor's products or
14 are false, misleading, obscene, or indecent; and (5) as will
15 prevent deception of the consumer by use of a trade or brand
16 name that is the name of any living individual of public promi-
17 nence, or existing private or public organization, or is a
18 name that is in simulation or is an abbreviation thereof,
19 and as will prevent the use of a graphic, pictorial, or
20 emblematic representation of any such individual or organ-
21 ization, if the use of such name or representation is likely
22 falsely to lead the consumer to believe that the product
23 has been indorsed, made, or used by, or produced for, or
24 under the supervision of, or in accordance with the specifi-
25 cations of, such individual or organization: *Provided, That*

1 this clause shall not apply to the use of the name of any
2 person engaged in business as a distiller, brewer, rectifier,
3 blender, or other producer, or as an importer, wholesaler,
4 retailer, bottler, or warehouseman, of distilled spirits, wine,
5 or malt beverages, nor to the use by any person of a trade
6 or brand name used by him or his predecessor in interest
7 prior to the date of the enactment of this Act; including
8 regulations requiring, at time of release from customs
9 custody, certificates issued by foreign governments covering
10 origin, age, and identity of imported products. No person
11 shall remove from Government custody after purchase at
12 any Government sale any distilled spirits, wine, or malt
13 beverages in bottles to be held for sale, until such bottles
14 are packaged, marked, branded, and labeled in conformity
15 with the requirements of this subsection.

16 It shall be unlawful for any person to alter, mutilate,
17 destroy, obliterate, or remove any mark, brand, or label
18 upon distilled spirits, wine, or malt beverages held for sale
19 in interstate or foreign commerce or after shipment therein,
20 except as authorized by Federal law or except pursuant to
21 regulations of the Administrator authorizing relabeling for
22 purposes of compliance with the requirements of this sub-
23 section or of State law.

24 In order to prevent the sale or shipment or other intro-
25 duction of distilled spirits, wine, or malt beverages in inter-

1 state or foreign commerce, if bottled, packaged, or labeled
2 in violation of the requirements of this subsection, no bottler,
3 or importer of distilled spirits, wine, or malt beverages,
4 shall, after such date as the Administrator fixes as the earliest
5 practicable date for the application of the provisions of
6 this subsection to any class of such persons (but not later
7 than January 1, 1936, and only after thirty days' public
8 notice), bottle or remove from customs custody for con-
9 sumption distilled spirits, wine, or malt beverages, respec-
10 tively, unless the bottler or importer, upon application to
11 the Administrator, has obtained and has in his possession
12 a certificate of label approval covering the distilled spirits,
13 wine, or malt beverages, issued by the Administrator in
14 such manner and form as he shall by regulations prescribe:
15 *Provided*, That any such bottler shall be exempt from the
16 requirements of this subsection if the bottler, upon appli-
17 cation to the Administrator, shows to the satisfaction of
18 the Administrator that the distilled spirits, wine, or malt
19 beverages to be bottled by the applicant are not to be sold,
20 or offered for sale, or shipped or delivered for shipment,
21 or otherwise introduced, in interstate or foreign commerce.
22 Officers of internal revenue and customs are authorized and
23 directed to withhold the release of such products from the
24 bottling plant or customs custody unless such certificates
25 have been obtained, or unless the application of the bottler

1 for exemption has been granted by the Administrator. The
2 district courts of the United States, the Supreme Court of
3 the District of Columbia, and the United States court for any
4 Territory, shall have jurisdiction of suits to enjoin, annul, or
5 suspend in whole or in part, any final action by the Admin-
6 istrator upon any application under this subsection; or

7 (f) Advertising: To publish or disseminate or cause
8 to be published or disseminated by radio broadcast, or in
9 any newspaper, periodical or other publication or by any
10 sign or outdoor advertisement or any other printed or
11 graphic matter, any advertisement of distilled spirits, wine,
12 or malt beverages, if such advertisement is in, or is calculated
13 to induce sales in, interstate or foreign commerce, or is dis-
14 seminated by mail, unless such advertisement is in con-
15 formity with such regulations, to be prescribed by the Ad-
16 ministrator, (1) as will prevent deception of the consumer
17 with respect to the products advertised and as will prohibit,
18 irrespective of falsity, such statements relating to age, manu-
19 facturing processes, analyses, guaranties, and scientific or
20 irrelevant matters as the Administrator finds to be likely to
21 mislead the consumer; (2) as will provide the consumer
22 with adequate information as to the identity and quality of
23 the products advertised, the alcoholic content thereof (except
24 that statements of, or statements likely to be considered as
25 statements of, alcoholic content of malt beverages are pro-

hibited and except that, in case of wines, statements of alcoholic content shall be required only for wines containing more than 14 per centum of alcohol by volume), and the person responsible for the advertisement; (3) as will require an accurate statement, in the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification or in case of gin whether or not produced by blending or rectification, if neutral spirits have been used in the production thereof, informing the consumer of the percentage of neutral spirits so used and of the name of the commodity from which such neutral spirits have been distilled; (4) as will prohibit statements that are disparaging of a competitor's products or are false, misleading, obscene, or indecent; (5) as will prevent statements inconsistent with any statement on the labeling of the products advertised. This subsection shall not apply to outdoor advertising in place on June 18, 1935, but shall apply upon replacement, restoration, or renovation of any such advertising.

The provisions of subsections (a), (b), and (c) shall not apply to any act done by an agency of a State or political subdivision thereof, or by any officer or employee of such agency.

The Administrator shall give reasonable public notice, and afford to interested parties opportunity for hearing,

1 prior to prescribing regulations to carry out the provisions
2 of this section.

3

PENALTIES

4 SEC. 6. The District Courts of the United States, the
5 Supreme Court of the District of Columbia, and the United
6 States Court for any Territory, of the District where the
7 offense is committed or threatened or of which the offender
8 is an inhabitant or has his principal place of business, are
9 hereby vested with jurisdiction of any suit brought by
10 the Attorney General in the name of the United States,
11 to prevent and restrain violations of any of the provisions
12 of this Act. Any person violating any of the provisions
13 of sections 3 or 5 shall be guilty of a misdemeanor and
14 upon conviction thereof be fined not more than \$1,000 for
15 each offense. Subject to the approval of the Attorney
16 General, the Administrator is authorized, prior to com-
17 mencement of court proceedings with respect to any vio-
18 lation of this Act, to compromise the liability arising with
19 respect to such violation (1) upon payment of a sum not
20 in excess of \$500 for each offense, to be collected by the
21 Administrator and to be paid into the Treasury as miscel-
22 laneous receipts, and (2) in case of repetitious violations
23 and in order to avoid multiplicity of criminal proceedings,
24 upon agreement to a stipulation that the United States
25 may, on its own motion upon five days' notice to the viola-

1 tor, cause a consent decree to be entered by any court of
2 competent jurisdiction enjoining the repetition of such
3 violation.

4 INTERLOCKING DIRECTORATES

5 SEC. 7. (a) Except as provided in subsection (b),
6 it shall be unlawful for any individual to take office, after
7 the date of the enactment of this Act, as an officer or director
8 of any company, if his doing so would make him an officer
9 or director of more than one company engaged in business
10 as a distiller, rectifier, or blender of distilled spirits, or of
11 any such company and of a company which is an affiliate
12 of any company engaged in business as a distiller, rectifier,
13 or blender of distilled spirits, or of more than one company
14 which is an affiliate of any company engaged in business
15 as a distiller, rectifier, or blender of distilled spirits, unless,
16 prior to taking such office, application made by such indi-
17 vidual to the Administrator has been granted and after due
18 showing has been made to him that service by such individual
19 as officer or director of all the foregoing companies of which
20 he is an officer or director together with service in the
21 company with respect to which application is made will not
22 substantially restrain or prevent competition in interstate
23 or foreign commerce in distilled spirits. The Administrator
24 shall, by order, grant or deny such application on the basis
25 of the proof submitted to him and his finding thereon. The

1 District Courts of the United States, the Supreme Court of
2 the District of Columbia, and the United States courts for
3 any Territory shall have jurisdiction of suits to enjoin, annul,
4 or suspend any final action by the Administrator upon any
5 application under this subsection.

6 (b) An individual may, without regard to the provi-
7 sions of subsection (a), take office as an officer or director
8 of a company described in subsection (a) while holding
9 the position of officer or director of any other such company
10 if such companies are affiliates at the time of his taking
11 office and if—

12 (1) Such companies are affiliates on the date of
13 the enactment of this Act; or

14 (2) Each of such companies has been organized
15 under the law of a State to comply with a requirement
16 thereof under which, as a condition of doing business
17 in such State, such company must be organized under
18 the law of such State; or

19 (3) One or more such companies has been organ-
20 ized under the law of a State to comply with a require-
21 ment thereof under which, as a condition of doing
22 business in such State, such company must be organ-
23 ized under the laws of such State, and the other one
24 or more of such companies not so organized, is in
25 existence on the date of the enactment of this Act; or

1 (4) One or more of such companies has been
2 organized under the law of a State to comply with a
3 requirement thereof under which, as a condition of
4 doing business in such State, such company must be
5 organized under the law of such State, and not more
6 than one of such companies is a company which has
7 not been so organized and which has been organized
8 after the date of the enactment of this Act.

9 (c) As used in this section, the term "company"
10 means a corporation, joint stock company, business trust,
11 or association, but does not include any agency of a State
12 or political subdivision thereof or any officer or employee
13 of any such agency.

14 (d) Any individual taking office in violation of this
15 section shall be punished by a fine of not exceeding \$1,000.

16 FEDERAL ALCOHOL CONTROL ADMINISTRATION

17 SEC. 8. The Federal Alcohol Control Administration
18 established by Executive order under the provisions of
19 Title I of the National Industrial Recovery Act is hereby
20 abolished. All papers, records, and property of such Fed-
21 eral Alcohol Control Administration are hereby transferred
22 to the Administrator. This section shall take effect on the
23 date that the Administrator first appointed under this Act
24 takes office.

MISCELLANEOUS

SEC. 9. (a) As used in this Act—

(1) The term “Administrator” means the head of the Federal Alcohol Administration.

(2) The term “United States” means the several States and Territories and the District of Columbia; the term “State” includes a Territory and the District of Columbia; and the term “Territory” means Alaska, Hawaii, and Puerto Rico.

(3) The term “interstate or foreign commerce” means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(4) The term “person” means individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term “trade buyer” means any person who is a wholesaler or retailer.

(5) The term “affiliate” means any one of two or more persons if one of such persons has actual or

1 legal control, directly or indirectly, whether by stock
 2 ownership or otherwise, of the other or others of such
 3 persons; and any one of two or more persons subject to
 4 common control, actual or legal, directly or indirectly,
 5 whether by stock ownership or otherwise.

6 (6) The term "distilled spirits" means ethyl
 7 alcohol, hydrated oxide of ethyl, spirits of wine,
 8 whiskey, rum, brandy, gin, and other distilled spirits,
 9 including all dilutions and mixtures thereof, for non-
 10 industrial use.

11 (7) The term "wine" means (1) wine as de-
 12 fined in section 610 and section 617 of the Revenue
 13 Act of 1918, (U. S. C., title 26, secs. 441 and 444)
 14 as now in force or hereafter amended, and (2) other
 15 alcoholic beverages not so defined, but made in the
 16 manner of wine, including sparkling and carbonated
 17 wine, wine made from condensed grape must, wine
 18 made from other agricultural products than the juice
 19 of sound, ripe grapes, imitation wine, compounds sold
 20 as wine, vermouth, cider, perry and sake; in each
 21 instance only if containing not less than 7 per centum
 22 and not more than 24 per centum of alcohol by volume,
 23 and if for non-industrial use.

24 (8) The term "malt beverage" means a bev-
 25 erage made by the alcoholic fermentation of an infusion

1 or decoction, or combination of both, in potable brew-
2 ing water, of malted barley with hops, or their parts,
3 or their products, and with or without other malted
4 cereals, and with or without the addition of unmalted
5 or prepared cereals, other carbohydrates or products
6 prepared therefrom, and with or without the addition
7 of carbon dioxide, and with or without other whole-
8 some products suitable for human food consumption.

9 (9) The term "bottle" means any container,
10 irrespective of the material from which made, for use
11 for the sale of distilled spirits, wine, or malt beverages
12 at retail.

13 (b) The right to amend or repeal the provisions of
14 this Act is expressly reserved.

15 (c) If any provision of this Act, or the application
16 of such provision to any person or circumstance, is held
17 invalid, the remainder of the Act and the application of such
18 provision to persons or circumstances other than those as
19 to which it is held invalid, shall not be affected thereby.

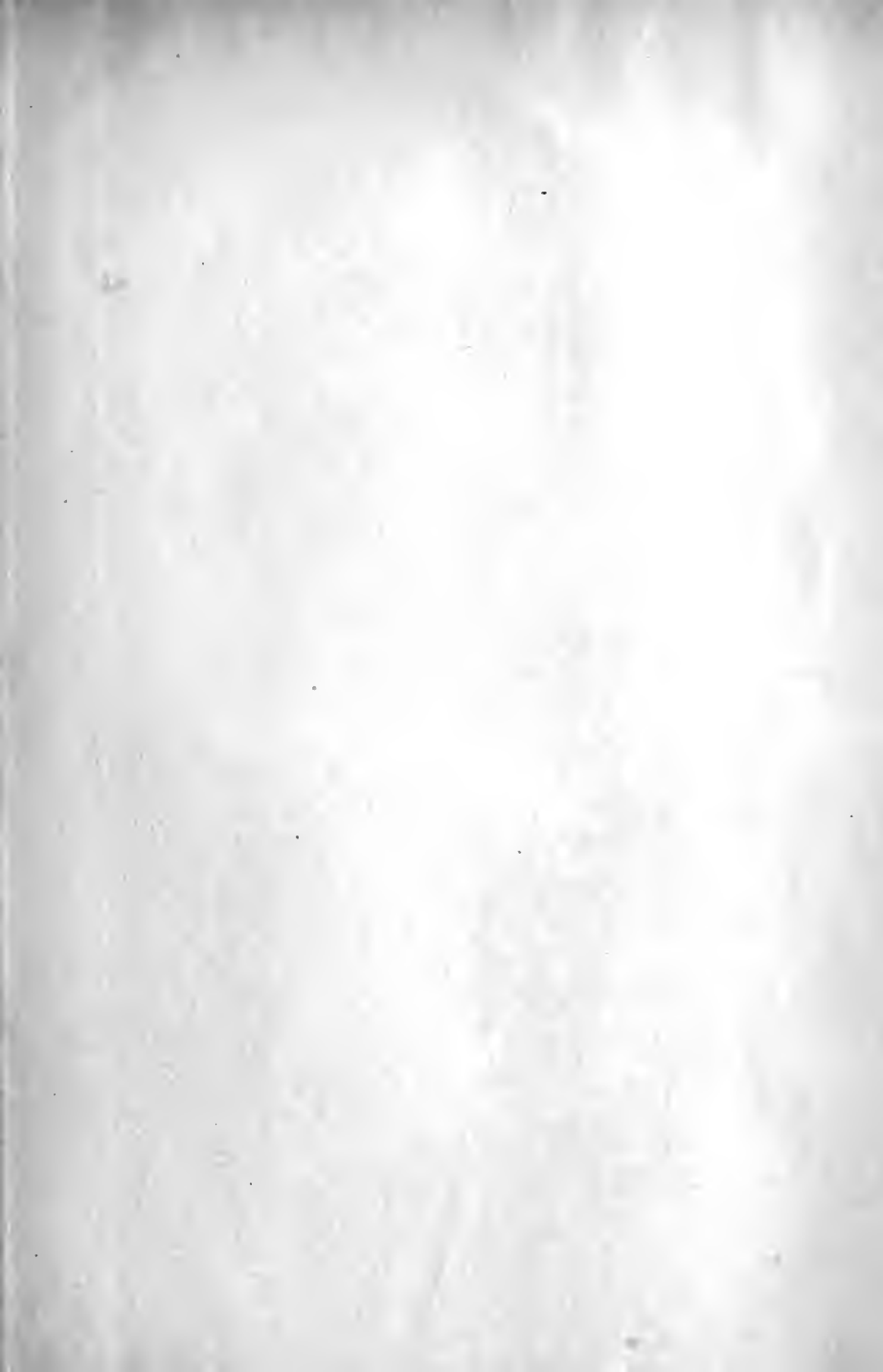
Passed the House of Representatives July 24, 1935.

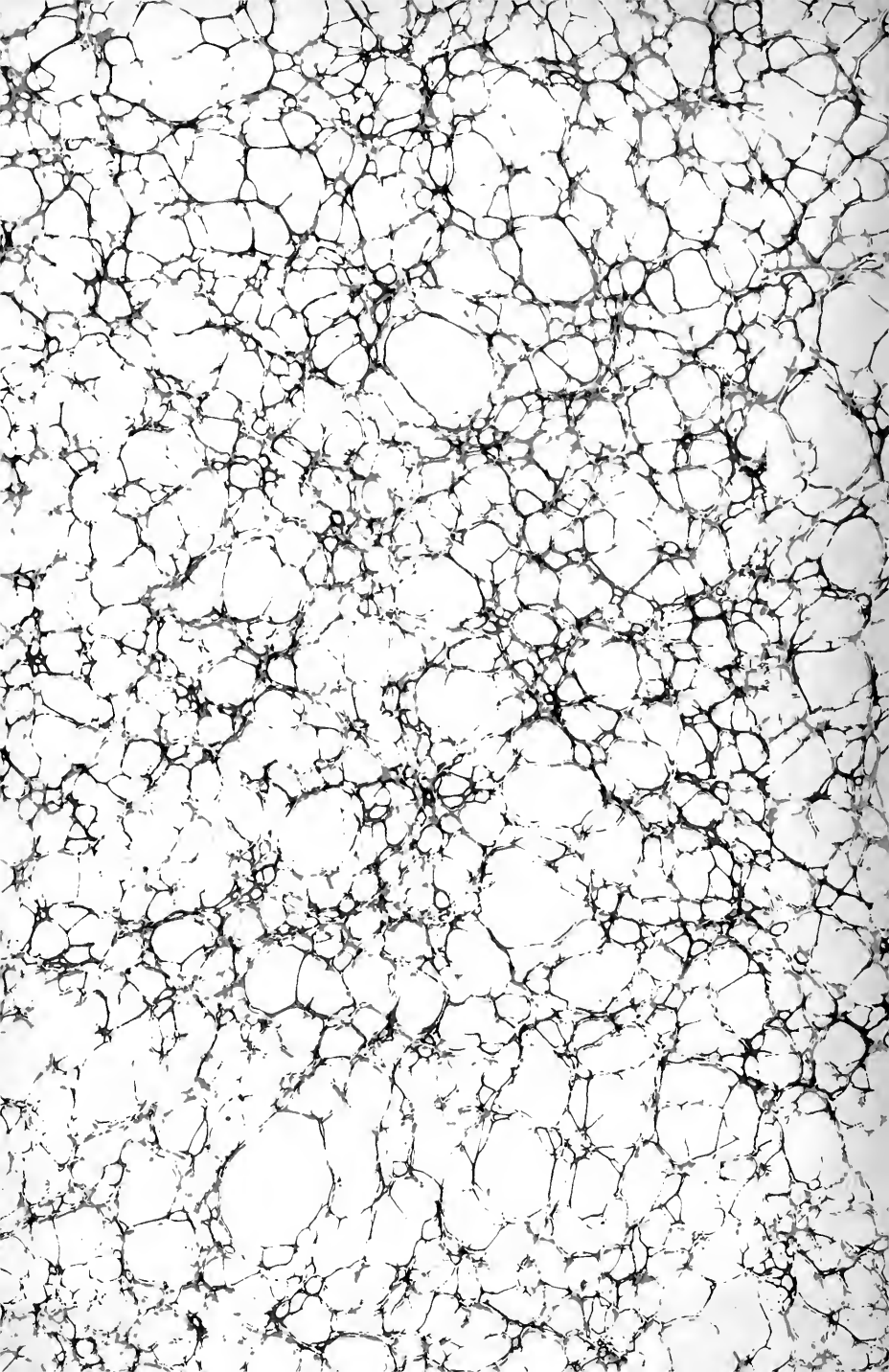
Attest:

SOUTH TRIMBLE,

Clerk.







Legis.Hist.
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Federal alcohol
administration
act, 1935.

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(H.R. 8974)
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